Date: July 23, 2008

W.I.: 1254

Referred by: BATA Oversight

ABSTRACT

BATA Resolution No. 81

This resolution authorizes the issuance of refunding bonds to refinance the Authority's outstanding auction rate bonds, the purchase of those auction rate bonds to facilitate the refunding (or to facilitate the previously authorized conversion of those auction rate bonds to another interest rate mode), the restructuring of related interest rate swap obligations of the Authority, the issuance of additional bonds for the seismic retrofit program, and all necessary actions in connection therewith.

Discussion of this action is contained in the Executive Director's Memorandum to BATA dated July 9, 2008.

Date: July 23, 2008

W.I.: 1254

Referred by: BATA Oversight

RE: <u>Authorizations Concerning Bay Area Toll Authority San Francisco Bay Area Toll Bridge</u>
Revenue Bonds

BAY AREA TOLL AUTHORITY RESOLUTION NO. 81

WHEREAS, the Bay Area Toll Authority (the "Authority"), has issued its Toll Bridge Revenue Bonds (the "Bonds") pursuant to the Master Indenture, as amended and supplemented (the "Indenture"), between the Authority and Union Bank of California, N.A. ("Union Bank"), as trustee;

WHEREAS, recent downgrades in the credit rating of Ambac Assurance Corporation ("Ambac") and other developments in the capital markets have adversely affected the interest rates or the marketability of Bonds insured by Ambac that are variable interest rate bonds ("Ambacinsured Bonds"), and future events may further adversely affect the Ambac-insured Bonds;

WHEREAS, the Ambac-insured Bonds include Bonds that bear interest at an auction rate, namely 2003 Series A Bonds, 2003 Series B Bonds, 2006 Series D-2 Bonds, 2006 Series E-1 Bonds, 2007 Series D-1 Bonds, 2007 Series E-1 Bonds, and 2007 Series E-2 Bonds, in an aggregate principal amount outstanding of approximately \$507,100,000 ("Auction Rate Bonds");

WHEREAS, in order to minimize debt service and maximize benefits to the Authority, it is desirable for the Authority to supplement its Resolution No. 77 and pursue a strategy or combination of strategies, including but not limited to:

- (1) issuing refunding bonds (the "Refunding Bonds") to refund the Auction Rate Bonds or, as previously authorized, converting all or part of the Auction Rate Bonds to another interest rate mode or modes;
- (2) purchasing Auction Rate Bonds to facilitate refunding or converting those Bonds;
- (3) executing new liquidity agreements to support Refunding Bonds or converted Auction Rate Bonds that bear variable interest rates;
- (4) amending, restructuring or terminating existing swap agreements related to the Auction Rate Bonds and entering into new interest rate swap agreements to hedge the Authority's exposure to interest rate risk on Additional Bonds, Refunding Bonds and converted Auction Rate Bonds;

- (5) entering into agreements with Ambac (such as agreements suspending Ambac's insurance on Ambac-insured bonds) to reduce the Authority's financing costs; and
- (6) entering into new or amended arrangements with liquidity and credit providers, underwriters, and remarketing agents with respect to the Auction Rate Bonds, the other Ambac-insured Bonds, and the Refunding Bonds;

WHEREAS, the Authority has decided to issue additional Bonds ("Additional Bonds") to provide additional funding for the seismic retrofit program;

WHEREAS, in order to facilitate the offering and sale of the Additional Bonds and the Refunding Bonds, there has been prepared and presented to the Authority a proposed form of official statement in preliminary form (the "Preliminary Official Statement") that is to be adapted to serve as the reoffering circular for converted Auction Rate Bonds (the "Reoffering Circular"); now, therefore, be it

<u>RESOLVED</u>, that the Authority finds that the foregoing recitals are true and correct and that terms used in this Resolution that are defined in the Indenture shall have the meanings herein assigned therein; and, be it further

<u>RESOLVED</u>, that the Authority hereby authorizes the issuance, from time to time, of Additional Bonds as fixed interest rate Bonds and Refunding Bonds as fixed interest rate Bonds or variable interest rate Bonds (or a combination thereof), in an aggregate principal amount not to exceed \$800 million, all in accordance with the Indenture, to:

- (1) refund Auction Rate Bonds;
- (2) provide additional funds for the seismic retrofit program;
- (3) increase the amount in the Reserve Fund as necessary to meet the requirements of the Indenture;
- (4) pay costs of issuance of the Bonds, provided that the aggregate costs of issuance of the Bonds (including the underwriters' discount but excluding the costs of any credit or liquidity instruments and any Reserve Facilities entered into in connection with the Bonds) shall not exceed 1.50% of the aggregate principal amount of the Bonds issued; and
- (5) pay any interest rate swap-related or other costs, fees or payments as are determined to be necessary or desirable by the Executive Director or the Chief Financial Officer in carrying out the purposes of this Resolution.

RESOLVED, that subject to the foregoing, the series designations, dates, maturity date or dates (not to exceed 40 years from their date of issuance), interest rate or rates (not to exceed 6% per annum for fixed interest rate Bonds and not to exceed 12% per annum for variable interest rate Bonds, except with respect to any variable interest rate Bonds that are Credit Provider Bonds, for which the interest rate or rates shall not exceed 15% per annum), and method of determining the same, terms of redemption, terms of tender and purchase, and other terms of the Additional Bonds and Refunding Bonds, shall be as provided in Supplemental Indentures as finally executed; and be it further

RESOLVED, that pursuant to Section 3.01(B)(2) of the Indenture, the Authority hereby determines in connection with the issuance of Additional Bonds that the ratio of (A) projected Net Revenue for each of the next three Fiscal Years, to (B) Maximum Annual Debt Service on the Bonds (and Parity Obligations), calculated as of an estimated sale date of August 1, 2008, and including the Additional Bonds in an assumed principal amount of \$200,000,000, will not be less than 1.50:1, and the Authority hereby directs the Executive Director, the Chief Financial Officer or another Authorized Representative (as defined in the Indenture) (each, an "Authorized Representative") to update this calculation as of the actual date of sale of the Additional Bonds and in the actual amount being sold and to proceed with the sale only if the aforesaid ratio is not less than 1.50:1 as of said date of sale;

RESOLVED, that the Authority hereby authorizes an Authorized Representative to select the parties to and execute and deliver (and the Secretary is authorized to countersign, if necessary) each of the documents that is necessary or appropriate to effect the transactions authorized hereby, including, without limitation, Supplemental Indentures, standby bond purchase agreements, municipal bond insurance agreements, purchase contracts, remarketing agreements, preliminary and final official statements, and continuing disclosure agreements (collectively called the "Bond Documents") in substantially the forms executed by the Authority in the past, with such additions thereto or changes therein or in such other form as the Authorized Representative executing the same, with the advice of General Counsel to the Authority and Orrick, Herrington & Sutcliffe LLP, bond counsel to the Authority ("Bond Counsel"), may require or approve, the approval of such additions or changes or the approval of such other form to be conclusively evidenced by the execution and delivery of each of said documents; and be it further

<u>RESOLVED</u>, that the Authority hereby authorizes an Authorized Representative to execute and deliver agreements with Ambac concerning Ambac's insurance for all or any portion of the Ambac-insured Bonds and Ambac's surety bonds that the Authorized Representative determines, in

his or her sole discretion, are likely to contain or reduce the Authority's financing costs, including, without limitation, agreements suspending or terminating Ambac's insurance on Ambac-insured Bonds, and such agreements shall be in such form as the Authorized Representative executing the same, with the advice of General Counsel to the Authority and Bond Counsel, may approve, the approval to be conclusively evidenced by the execution and delivery of each of said agreements; and be it further

<u>RESOLVED</u>, that the Authority hereby:

- (1) authorizes the Preliminary Official Statement to be completed and deemed final by an Authorized Representative on behalf of the Authority for purposes of compliance with Securities and Exchange Commission Rule 15c2-12;
- (2) authorizes the distribution of one or more such Preliminary Official Statements in such form or forms as is deemed final by such Authorized Representative;
- (3) authorizes an Authorized Representative to execute and deliver one or more final official statements (the "Official Statement") in substantially the form of each Preliminary Official Statement, with such additions thereto or changes therein as the Authorized Representative executing the same, with the advice of General Counsel to the Authority, may require or approve, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Official Statement (and the underwriters of the Additional Bonds and the Refunding Bonds are hereby authorized and directed to distribute copies of the Official Statement to persons purchasing the Additional Bonds and Refunding Bonds); and
- (4) authorizes the Preliminary Official Statement to be adapted to serve as the Reoffering Circular for the converted Auction Rate Bonds with such additions thereto or changes therein as an Authorized Representative, with the advice of General Counsel to the Authority, may require or approve, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Reoffering Circular (and the remarketing agents remarketing converted Auction Rate Bonds are hereby authorized and directed to distribute copies of the Reoffering Circular to persons purchasing the converted Auction Rate Bonds); and be it further

<u>RESOLVED</u>, that to facilitate the offering and sale of the Refunding Bonds and the conversion and remarketing of converted Auction Rate Bonds, the Authority hereby authorizes each of the Authorized Representatives to purchase, for and on behalf of the Authority, Auction Rate Bonds at a price equal to the principal amount of the Auction Rate Bonds (plus accrued interest) on a date or dates selected by the Authority; and be it further

<u>RESOLVED</u>, because the Authority's cost of funds to pay interest on Bonds heretofore and hereafter issued will be affected by changes in interest rates, each Authorized Representative is hereby authorized, for and on behalf of the Authority, to select counterparties for and prepare, enter into, and perform contracts and arrangements permitted by California Government Code Sections 5920 through 5923 determined by such Authorized Representative to be necessary or appropriate:

- (1) to amend, restructure or terminate any of the Authority's existing interest rate swap agreements related to the Auction Rate Bonds in order to adjust the amount or duration of or terminate payments thereunder or change fixed payment obligations of the Authority thereunder from fixed payment obligations to variable payment obligations (provided that the resulting variable payment obligations shall not exceed a contractual ceiling approved by an Authorized Representative) and to make any resulting termination or other payments;
- (2) to hedge the Authority's exposure to interest rate risk on all or any portion of the Additional Bonds, the Refunding Bonds and the converted Auction Rate Bonds by means of new interest rate swap agreements that obligate the Authority to make fixed payments or variable payments to swap counterparties (provided that the resulting fixed payment obligations of the Authority shall not exceed 5.0 percent per annum of the notional amount of the interest rate swap and the resulting variable payment obligations of the Authority shall not exceed a contractual ceiling approved by an Authorized Representative);
- (3) provided, that all such contracts and arrangements referred to in (1) and (2) above shall be entered into using the Authority's previously approved Debt Policy and forms of swap documentation as guidelines for documentation and counterparty selection, and with such changes in swap documentation as shall be approved by an Authorized Representative;
- (4) provided further, that each such contract or arrangement shall be a Qualified Swap Agreement if the Authority has received a Rating Confirmation from each Rating Agency with respect thereto and if the Authorized Representative determines, for and on behalf of the Authority, that (a) the notional amount of the contract or arrangement does not exceed the principal amount of the related series of Additional Bonds, Refunding Bonds or converted Auction Rate Bonds or portion thereof as applicable (and in making such a determination, the Authorized Representative is hereby directed to calculate notional amounts as net amounts by taking into account and giving effect to all contracts and arrangements referred to above and rounding amounts as necessary to establish that each such agreement is a Qualified Swap Agreement) and (b) the contract

or arrangement is intended to place the Additional Bonds, the Refunding Bonds and the converted Auction Rate Bonds on the interest rate basis desired by the Authority, that payments (other than payments of fees and expenses and termination payments, which shall be Subordinate Obligations) thereunder shall be payable from Revenue on a parity with the payment of Bonds, and that the contract or arrangement is designed to reduce the amount or duration of payment, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance of the Additional Bonds and the Refunding Bonds and the conversion of Auction Rate Bonds; and be it further

RESOLVED, that the Chair of the Authority, the Vice Chair of the Authority, the Executive Director, the Chief Financial Officer, and other appropriate officers of the Authority, be and they are hereby authorized and directed, jointly and severally, for and in the name and on behalf of the Authority, to execute and deliver any and all certificates, documents, amendments, instructions, orders, representations and requests, and to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, to effectuate the actions that the Authority has approved in this Resolution or in prior resolutions related to the Bonds and to carry out, consummate and perform the duties of the Authority set forth in the Bond Documents and all other documents executed in connection with the Bonds; and be it further

<u>RESOLVED</u>, that this Resolution shall take effect from and after its adoption.

AY AREA TOLL AUTHORITY
ill Dodd. Chair

The above resolution was entered into by the Bay Area Toll Authority at a regular meeting of the Authority held in Oakland, California, on July 23, 2008.